UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1045
8 August 1994

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1045th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 August 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1045/Add.1.

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GE.94-18196 (E)

The meeting was called to order at 10.30 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 6) (continued)

Situation in Rwanda (continued)

1. The CHAIRMAN said that, following consultations with all members of the Committee, Mr. Sherifis had prepared a draft decision on the human rights situation in Rwanda, the text of which was as follows:

"Human Rights Situation in Rwanda

"The Committee on the Elimination of Racial Discrimination,

"Deeply concerned and gravely alarmed by the tragic loss of life of genocidal dimensions in Rwanda,

"Profoundly regretting that the international community was so unforgivably late in its effort to prevent the human tragedy and genocide occurring in Rwanda,

"Noting, however, with appreciation the current efforts of the United Nations system and others to provide humanitarian relief and to prevent the further loss of life in Rwanda,

"1. Calls upon the United Nations to take all measures required to ensure that adequate humanitarian assistance effectively and urgently reaches the Rwandese population;

"2. Urges the rapid deployment of United Nations forces without further delay in order to ensure the protection of the life and human rights of all persons regardless of ethnic or religious background, including the right of all refugees and displaced persons to return to their homes under conditions of safety;

"3. Expresses its readiness to cooperate, within the domain of its competence, in the coordinated effort of the United Nations and regional organizations for peacebuilding and State reconstruction so that racial discrimination and ethnic conflict will not reoccur."

2. Mr. SHERIFIS said that the draft decision did not encompass all aspects of the situation but was intended to express the Committee's concern and alarm at the suffering in Rwanda and the region. Since the text had been drafted, new figures had been released showing the enormity of the tragedy. According to estimates of 21 July 1994, 10,500 refugees had fled to Uganda; 1.2 million had crossed the Zairian frontier to Goma, 200,000 to Bukavu and 400,000 to Uvira, while 460,500 had fled over the border to Tanzania. Sources had put the number of dead at between 200,000 and half a million. The international community, with very few exceptions, had been slow to react to such an unprecedented human rights disaster.

3. The Committee should, at the appropriate time, volunteer its services to help in the reconstruction of Rwanda and in the peacebuilding process.

4. In reply to a question by Mr. LECHUGA HEVIA, Mrs. KLEIN (Representative of the Secretary-General) informed the Committee that, pursuant to Security Council resolution 935 (1994), the Secretary-General had been requested to appoint three experts to sit on a Commission of Experts to collect evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including evidence of possible acts of genocide. The Secretary-General had appointed experts from Mali, Guinea and Togo who would be based at Geneva and work under the supervision of the High Commissioner for Human Rights.

5. Mr. FERRERO COSTA suggested that the preamble of the draft decision should indicate that Rwanda was a State party to the Convention. The operative part should recall the responsibility of the Rwandese authorities to respect the provisions of the Convention, inter alia, of article 2. In operative paragraph 3, greater prominence should be given to the Committee's role and the means of action available to it. The task of the impartial Commission of Experts should also be mentioned, thus highlighting the international community's resolve to determine responsibility for the events in Rwanda.

6. Mr. SHAHI suggested that the last phrase of the third preambular paragraph should be amended to read "... provide humanitarian relief and the establishment of a safe area in Rwanda". Efforts to "prevent further loss of life in Rwanda" entirely depended on how the United Nations, and the Security Council in particular, decided to proceed. The Secretary-General had called for the establishment of a force of 5,500, which would have to be trained and equipped. There had so far been no decision on whether it would be a peace-keeping force whose functions were merely those of a humanitarian agency or whether it would be given a more active task. Until that decision was taken, it would be idle for the Committee to believe that any loss of life could be prevented simply by humanitarian relief.

7. At the Committee's forty-fourth session, general recommendation XVIII (44) had been adopted on the establishment of an international tribunal to prosecute crimes against humanity. The preamble to the draft decision should recall that general recommendation and its applicability to the situation in Rwanda. It should also express its appreciation of the establishment of an impartial Commission of Experts by the Secretary-General.

8. Mr. WOLFRUM said that operative paragraph 3 was of particular importance, as it contained the key words "State reconstruction". That would require the establishment throughout Rwanda of a new legal order. Any new legal instruments, including the Constitution, would have to reflect the country's particular situation and history, which would require considerable field research. The Committee's experts could make a valuable contribution in that regard. Operative paragraph 3 should remain as it was, as any reference to human rights institutions, even to the Committee itself, would weaken the decision. The paragraph also reflected the provisions of the Secretary-General's report entitled "An agenda for peace" (A/47/277) and its chapter on post-conflict peacebuilding.

9. Mr. DIACONU said he could accept many of the amendments proposed to the preambular part of the text, but shared the view that it would be wise not to include too much detail in operative paragraph 3, since the effect would be to restrict the Committee's field of action. Since the reconstruction of Rwanda was bound to prove an enormous and lengthy task, it was important that the text should remain flexible. During the Committee's discussion of the situation in Rwanda at its previous session, the representative of that country had seemed not to take the Committee's concerns and recommendations very seriously. That was further proof that no useful results could be achieved in the absence of dialogue, and underscored the need to employ every possible means to promote such dialogue throughout the world.

10. Mr. DE GOUTTES said that, while he found the text of the draft decision acceptable as it stood, he could agree to Mr. Ferrero Costa's proposal to expand operative paragraph 3, since it would be useful to mention the specific contribution the Committee could make to the many initiatives in view. The Committee was especially well placed to offer its assistance, with the support of the Centre for Human Rights, firstly, in giving advice on the preparation of new legislation in the administrative, judicial and institutional spheres, and secondly, in providing assistance with the training and education in human rights of members of the judiciary and police, or even the army. He also endorsed Mr. Ferrero Costa's proposal that reference should be made to the Committee's general recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity.

11. One further important point highlighted by the events in Rwanda was the Committee's need to receive ongoing information to alert it to potential problem areas. That requirement need not necessarily be specified in the draft decision; the matter might perhaps be dealt with in a letter from the Chairman of the Committee urging that detailed information be provided on a continuing basis by the Special Rapporteur and the impartial Commission of Experts. In view of the urgency of the situation, it might also be useful for the Committee to request a special meeting with the Sub-Commission on Prevention of Discrimination and Protection of Minorities, currently in session, for an exchange of information on the situation in Rwanda.

12. Mr. CHIGOVERA said he found the text of the draft decision satisfactory as it stood; further additions would not add materially to its impact. He associated himself with the censure of the failure of the international community, and especially the Organization of African Unity, to do anything meaningful to halt the massacres in Rwanda. Referring to the establishment of an impartial Commission of Experts, he asked how the evidence the Commission was to collect would be handled and what action would be taken against any offenders it revealed. He hoped that the Commission would not follow the example of the Special Rapporteur, who, in his report (E/CN.4/1995/7), had described the killing of Tutsis as genocide and that of Hutus merely as political assassination or murder - possibly because he had little reliable information on killings carried out by the Rwandese Patriotic Front. From all reports mass killings had been perpetrated by both sides; it would therefore be wise to treat them all in the same way.

13. Mr. van BOVEN said that the appointment of the impartial Commission of Experts represented a new and welcome development in the relations

between the human rights programme and the actions of the Security Council. In past years the role of the Security Council in human rights matters had been very limited; it had always been extremely reluctant even to mention human rights or human rights instruments, preferring instead to employ the term "international humanitarian law", which included instruments such as the Geneva Conventions, as could be seen in Security Council resolution 935 (1994). It was of interest that the Commission was to receive assistance from the Centre for Human Rights, through the agency of the High Commissioner for Human Rights - the first time the Centre would be fully involved in the implementation of a Security Council resolution.

14. He welcomed the draft decision and hoped it could be adopted in its present form with only minor amendments, since lengthy additions would only lessen its impact. Its operative paragraphs 1 and 2 referred essentially to action in the short term, whereas operative paragraph 3 considered medium-term efforts, the area in which the Committee would most probably have a role to play. It was also the area to which the proposals contained in the agenda for peace would apply. He recalled the work carried out by the United Nations Transitional Authority in Cambodia and its ambitious programme for the restoration of civil society in that country, which had also suffered genocide and chaos. It was not yet known whether the United Nations would be willing to make another massive investment in such a constructive effort for peace, although the cost would be small in comparison with the massive profits resulting from the sale of armaments to countries such as Rwanda. Lastly, in operative paragraph 3 of the draft decision, he suggested that the words "gross and massive manifestations of" should be inserted before "racial discrimination and ethnic conflict" to take account of the fact that no country could ever be said to be totally free of any form of racial discrimination.

15. Mr. VALENCIA RODRIGUEZ said that he was prepared to support the text as it stood, but would endorse Mr. Ferrero Costa's suggestion that the preamble should include a reference to the fact that Rwanda was a State party to the Convention and as such had an obligation to take steps to guarantee the implementation of its provisions. In addition, if the Committee so agreed, some mention might be made in the preamble of the need to punish those responsible for the acts of genocide committed, perhaps using the language of the relevant Security Council resolution. The draft decision must be explicit but brief.

16. Regarding the Committee's role in connection with the situation in Rwanda, consideration might be given to sending a mission to that country at an appropriate time and on a voluntary basis, if the circumstances so warranted, provided there was no duplication of the efforts of other United Nations bodies. Secondly, the Committee should reiterate its recommendation on the establishment of an international tribunal to prosecute crimes against humanity, or consider the expansion of the mandate of the tribunal set up in connection with the events in the former Yugoslavia.

17. Mr. SONG Shuhua agreed with previous speakers that the draft decision should be brief and uncomplicated, but that its tone should be firm. The Committee should proceed in stages, the first step being the adoption of the

draft decision. Regarding subsequent action, he agreed with other members on the need for information so that the Committee could make further proposals.

18. The CHAIRMAN informed the Committee that, as its Chairman, he had sent a letter to the High Commissioner for Human Rights in response to the latter's request of 26 April 1994 for his views on the human rights situation in Rwanda and action that might be taken. Before informing Committee members of the contents of his reply, he drew attention to the fact that the situation in Rwanda had been a constant focus of the Committee's attention. In his reply, he had explained how the Committee had approached the question and how deeply concerned it was about events in Rwanda. He had said that, in the current circumstances, it was futile to expect any existing institution in the country to verify the reported acts of genocide and redress the situation, and had suggested that a major reform of the judiciary, with adequate legal safeguards to ensure the protection of all members of society, should be undertaken. He had expressed the Committee's view that the United Nations should do everything in its power to prosecute the perpetrators of the crimes committed and had reported on the Committee's recommendation on the establishment of an international tribunal to prosecute crimes against humanity. There being no institution within the country to put an end to the bloodshed, the situation in Rwanda warranted immediate and urgent action by the United Nations, especially the Security Council. The overriding need to protect and safeguard human life and human rights called for a broad interpretation of the Charter of the United Nations and amply justified the moral correctness of such action. Immediate action could also be taken by regional organizations such as the Organization of African Unity. Peace-keeping, especially peace enforcement, operations were necessary. Finally, he had offered the Committee's expertise in order to assist the High Commissioner for Human Rights and the Centre for Human Rights in any action that might be taken.

19. He drew attention to the paragraph of the working paper adopted by the Committee on the prevention of racial discrimination, including early warning and urgent procedures, which read: "The Committee could designate a special rapporteur to act as a focal point for monitoring critical situations, consult with the Chairman of the Committee to initiate the urgent action procedure and to follow up when decisions have been taken". Although he was not suggesting that such a proposal should be included in the draft decision, it might be part of a decision to be taken by the Committee in connection with Rwanda. Speaking in his personal capacity, he welcomed the draft decision, whose adoption would be a necessary, expedient and indeed valiant gesture by the Committee.

20. Mrs. KLEIN (Representative of the Secretary-General) explained in response to questions raised by Mr. Chigovera that the Commission of Experts would meet very soon to adopt its rules of procedure and would commence its work by conducting a fact-finding mission in Rwanda to complement the investigations of the Special Rapporteur. It would then formulate its conclusions on the evidence it found of specific violations of international humanitarian law, especially acts of genocide, on the basis of which persons responsible for such acts could be identified. The Commission would then consider the international and national jurisdiction before which such persons could be brought. In any event, in accordance with Security Council resolution 935 (1994), the Commission's report should be submitted to the

Security Council within four months of the establishment of the Commission, i.e. before 30 November 1994. The Commission would also work in close cooperation with the Special Rapporteur for Rwanda, and their respective action would be coordinated by the High Commissioner for Human Rights.

21. The CHAIRMAN asked the Committee whether it wished to adopt the draft decision as it stood or would prefer the meeting to be suspended for further consultations.

22. Mr. SHERIFIS endorsed the view expressed by several members that the draft decision should be kept compact. He agreed, however, to the suggestion that mention could be made of the fact that Rwanda was a State party to the Convention, proposing the addition of the words "a contracting party to the International Convention on the Elimination of All Forms of Racial Discrimination" at the end of the first preambular paragraph. There was no need for any further reference to the State party's obligations under the Convention, especially in view of the uncertain political situation in Rwanda. He also endorsed Mr. van Boven's proposal to insert the words "gross and massive manifestations of" before "racial discrimination" in operative paragraph 3. He was not in favour of including a reference to the Committee's general recommendation XVIII (44) on the establishment of an international tribunal, since the draft decision concerned immediate action to deal with the current situation and the tribunal was not yet in existence; such a reference would only add to the length of the text. Also for reasons of brevity, he would have some misgivings about including a reference to the Committee's decision 2 (41) requesting further information from the Government of Rwanda, which might appear somewhat incongruous in a situation of genocidal dimensions. Operative paragraph 3 afforded sufficient scope for further proposals and action by the Committee when the time came.

23. Mr. SHAHI suggested that the meeting should be suspended to allow members to discuss the final wording of the draft decision. There was no need to recall the Committee's previous request for further information from the Government of Rwanda. It had been suggested that the draft decision should point out that Rwanda was a party to the Convention, but even if no such reference were included, it was still clear that Rwanda had obligations under the Charter of the United Nations.

24. Mr. FERRERO COSTA agreed with the changes proposed by Mr. Sherifis. He supported the proposal to include a reference to the Committee's general recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity.

The meeting was suspended at 12.05 p.m. and resumed at 12.40 p.m.

25. Mr. SHERIFIS said that, as a result of the informal discussions, it had been agreed that the first preambular paragraph of the draft decision would now read: "... in Rwanda, a contracting party to the International Convention on the Elimination of All Forms of Racial Discrimination". A new fourth preambular paragraph had been added, to read: "Recalling its general recommendation XVIII (44) on the establishment of an international tribunal to prosecute crimes against humanity". The final phrase of operative paragraph 3

would now read: "... so that gross and massive manifestations of racial discrimination and ethnic conflict will not reoccur". He hoped that the amended text would be acceptable to all members.

26. The draft decision, as orally amended, was adopted.

27. Mr. SHERIFIS suggested that the decision should be transmitted to the Secretary-General of the United Nations, the General Assembly, the chairpersons of human rights treaty bodies and the States parties to the Convention. It should also be publicized in the media.

28. The CHAIRMAN agreed that all relevant parties should be informed and that the decision should be publicized as widely as possible. He thanked Mr. Sherifis for his efforts to obtain a consensus among members.

The public part of the meeting rose at 12.45 p.m.